

REMARKS

Reconsideration of the claims, as amended, is being requested. Claims 1-19 are in this application. Claims 1, 2, 10, 11 and 19 have been amended.

Claims 1-19 were rejected under 35 USC 102(b) as being anticipated by Gitlin (6,018,528). Applicant respectfully traverses. Claims 1, 10 and 19 have been amended to recite the limitation of "...varying a time span..., wherein the time span is based on a rate of channel quality variation". (underline added for emphasis) Support for the amendments can be found at page 8, line 28 through page 9, line 4. By contrast, Gitlin discloses that a user may be assigned one or more time slots. Gitlin further discloses that "the various users 46, 48, 50 can modulate their signals into one or more of the available frequency bands 42 on a time slot-by-slot 44 basis in order to effect optimum scheduling of the users within the medium 40 to efficiently make use of the available time-frequency medium." "The actual position (scheduling) of the various speed users 46, 48, 50 within the overall medium may be determined based on such factors as individual user demand, the relative numbers of low speed/medium speed/high speed users, and the like." Figs. 6 and 7, col. 4, lines 40-50, and col. 5, line 47 through col. 7, line 39. Gitlin does not, however, disclose or suggest varying a time span based on a rate of channel quality variation. Accordingly, it is felt that claims 1, 10 and 19 are patentable under 35 USC 102(b) over Gitlin.

Claims 2-9 and 11-18 depend upon, and include all the limitations of, respective independent claims 1 and 10. In particular, claims 2-9 and 11-18 include the limitation of varying a time span based on a rate of channel quality variation. For the reasons discussed above, Gitlin does not disclose or suggest varying a time span based on a rate of channel quality variation. Accordingly, it is felt that claims 2-9 and 11-18 are also patentable under 35 USC 102(b) over Gitlin.

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In view of the foregoing, allowance of all the claims presently in the application is respectfully requested, as is passage to issuance of the application. If the Examiner should feel that the application is not yet in a condition for allowance and that a telephone interview would be useful, he is invited to contact Applicants' attorney, Jimmy Goo, at (973) 386-6377.

Respectfully,

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By

A handwritten signature in black ink, appearing to read 'Martin I. Finston', written over a horizontal line.

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Docket Administrator (Room 3J-219)

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